

Oklahoma Telephone & Telegraph, Inc.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 11, 2001

CC: 96-45

Ms. Dorothy Attwood
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Subject: Request for Waiver of Commission Rules

Dear Ms. Attwood:

Oklahoma Telephone & Telegraph, Inc. ("OT&T"), pursuant to Section 1.3 of the Commission's Rules, hereby seeks waiver of Section 36.621(a)(4) of the Commission's Rules limiting a telephone company's corporation operations expense amounts with respect to Universal Service Fund ("USF") cost recovery support. OT&T seeks this waiver for the purpose of recovering its costs related to the provision of affordable local telephone service to rural Oklahoma customers.

In its *Fourth Order on Reconsideration*, in the Universal Service proceeding,¹ the Commission adopted a formula that limits the amount of corporate operations expense that a carrier can include in its high cost loop support mechanisms for the USF. OT&T seeks waiver of the corporate operations expense limitation in Rule Section 36.621(a)(4)(ii) to allow it to include its actual corporate operations expense in the calculation of its federal USF expense adjustment. Grant of this request will serve the public interest by providing adequate cost recovery for OT&T, thereby allowing it to maintain affordable rates in rural Oklahoma.

OT&T submits this request for waiver of the Commission's rules at the direction of the Oklahoma Corporation Commission ("OCC"). OT&T, which provides local exchange telephone service to approximately 2,237 access lines in rural Oklahoma, has corporate operations expenses that exceed the cap imposed by

¹ In the Matter of Federal State Joint Board on Universal Service, *Fourth Order on Reconsideration*, CC Docket No. 96-45, 13 FCC Rcd 5318 (1997).

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the FCC on a carrier's recovery of such expenses from the Universal Service Fund. OT&T's provision of service is characterized by significant distances between exchanges and sparsely populated rural areas of Oklahoma that, collectively, lead to high operational costs.

OT&T has been granted conditional relief by the Oklahoma Corporation Commission ("OCC") in response to a request for additional funding from the Oklahoma Universal Service Fund ("OUSF"). On January 21, 2000, based on the special circumstances confronting OT&T and its need for appropriate and adequate cost recovery for the continued provision of basic telephone service to rural Oklahoma, OT&T submitted to the OCC a request for approval of funding from the OUSF for Primary Universal Service.²

By Order issued June 7, 2000, the OCC approved OT&T's request for funding but conditioned the commencement of payments to OT&T as follows:

"IT IS FURTHER ORDERED that the payments of the above amount commence upon the determination by [OT&T] that they have filed with FCC a request to waive the Corporate Operation[s] Expense Limitation. In the event there is a federal recovery, there should be a true up to ensure that there is no double recovery of the same expense."³

The OCC's action reflects its understanding of OT&T's need to recover its corporate expenses through its approved rate design and cost recovery mechanisms that promote the public interest and universal service. The OCC recognizes that the costs in question should be recovered through the federal USF as a result of the allocation of these costs to the interstate jurisdiction. The OCC further recognizes that the FCC's limitation on corporate expense recovery from the federal USF and its resultant allocation of interstate costs to the intrastate jurisdiction is inconsistent with the OCC's objectives to maintain reasonable rates and support universal service. While the OCC has taken action that will provide OT&T with conditional cost recovery, OT&T agrees that these costs would be more properly recovered through the federal USF.

OT&T would request that the waiver be granted beginning with the period from January 1999 forward. Accordingly, and in accordance with the direction of the

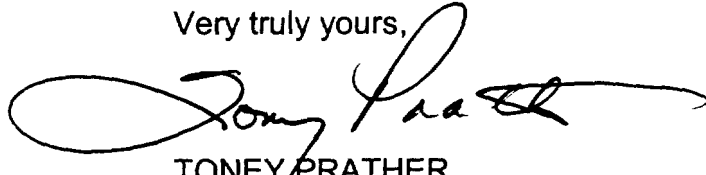
² OT&T requested that it be reimbursed \$78,516.00 for the year 1999, and a monthly recurring amount of \$27,230.00 beginning January, 2000. These amounts represent the loss of cost recovery as a result of the federal limitation on recovery of corporate operations expense pursuant to 47 C.F.R. § 36.621, which became effective January 1, 1998.

³ OCC, Order Approving Funding, Order No. 441809, attached hereto as Attachment 1.

OCC, OT&T respectfully requests expedient action on this request for waiver of the Commission's rules.

In conclusion, for the reasons explained above and at the direction of an order of the Oklahoma Corporation Commission, OT&T requests a waiver of the Commission's corporate operations expense cap related to high cost loop support. OT&T has demonstrated exceptional circumstances that warrant deviation from the rule limiting these expenses, and that the public interest will be served by grant of waiver.

Very truly yours,



TONEY PRATHER
President

TP/db

cc: Oklahoma Corporation Commission
Mr. Ron Comingdeer
Mr. Conley Cathey

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF THE APPLICATION OF
OKLAHOMA TELEPHONE & TELEGRAPH,
INC. FOR FUNDING FROM THE OKLAHOMA
UNIVERSAL SERVICE FUND

)
) CAUSE NO. PUD 200000037
)
) ORDER NO. 441809

ORDER APPROVING FUNDING

BY THE COMMISSION:

The Oklahoma Corporation Commission being regularly in session and the undersigned Commissioners being present and participating, the above styled cause comes on for consideration of the Recommendation of the Administrator of the Oklahoma Universal Service Fund. The Commission has jurisdiction pursuant to Article IX, Section 18 of the Oklahoma Constitution and 17 O.S. §139.106 *et seq.*

I. APPLICATION

On January 21, 2000, the Applicant filed its Application requesting approval of funding from the Oklahoma Universal Service Fund ("OUSF") for Primary Universal Service. The Applicant requested that it be reimbursed \$78,516.00 in a lump sum manner representing the year 1999 and a monthly recurring amount beginning January, 2000 in the amount of \$27,230.00.

II. RECOMMENDATION

In accordance with OAC 165:59, the Commission Staff reviewed the Application filed herein by the Applicant. On April 25, 2000, the Staff filed its Notification of Recommendation by the Administrator for Reimbursement from Oklahoma Universal Service Fund. Additionally, as required by the rules, the Notification of Recommendation was published on the Oklahoma Corporation Commission web site.

In its Recommendation, the Staff recommended as follows:

Primary Universal Service Request

Oklahoma Telephone & Telegraph, Inc. submitted a request for reimbursement for the loss of revenue associated with the federal limitation on recovery of Corporate Operations Expense for 1999 and 2000. A federal rule effective January 1, 1998, limited the amount of Corporate Operations Expense that can be included in the federal USF High Cost Loop algorithm. The revenue loss incurred by the rule change is measured by comparing the federal USF High Cost Loop support **with** the Corporate Operations Limit to the federal USF High Cost Loop support **without** the Corporate Operations Limit.

The change in the federal rule caused the loss of revenue in the first twelve months. However, factors other than the change in the federal rule caused the increase in the following year's corporate operations expense. Based on the Administrator's review and understanding of OAC 165:59-3-10(1) and 165:59-3-60(d), we recommend the following:

Loss of revenue associated with the federal limitation on recovery of Corporate Operations Expense:

<u>Lump Sum</u> <u>Jan 1999- Dec 1999</u>	<u>Monthly as of</u> <u>January 2000</u>
<u>\$78,516.00</u>	<u>\$6,543.00</u>

The Notification of Recommendation informed all parties that they had fifteen (15) days from April 25, 2000, to file a request for reconsideration by the Commission for determination made by the OUSF Administrator. Within the fifteen day time period, no requests for reconsideration were filed. Additionally, on May 22, 2000, a Revised Notification of Recommendation was filed and no objections were filed within the fifteen day time period.

III. FINDINGS

1. The Commission has jurisdiction in this Cause pursuant to OAC 165:59 and 17 O.S. §139.101 *et seq.*

2. After careful consideration of the Recommendation filed by the Administrator, the Commission finds that the Recommendation should be adopted. Therefore, the Applicant is entitled to be reimbursed \$78,516.00 representing the time period from January, 1999 through December, 1999 and a monthly recurring amount of \$6,543.00 beginning January, 2000.

3. Based on the subsequent discovery of additional information concerning the limitation on Corporate Operation Expense from the related FCC Order, the Administrator is revising the above recommendation. The Administrator recommends that the payments of the above amount commence upon the demonstration by the Applicant that they have filed with FCC a request to waive the Corporate Operation Expense Limitation. In the event that there is a federal recovery, there should be a true up to ensure that there is no double recovery of the same expense.

IV. ORDER

IT IS THEREFORE THE ORDER OF THE CORPORATION COMMISSION that a total amount of \$78,516.00 shall be reimbursed to the Applicant representing the time period from January, 1999 through December, 1999 and a monthly recurring amount of \$6,543.00 beginning January, 2000.

IT IS THEREFORE FURTHER ORDERED that the payments of the above amount commence upon the demonstration by the Applicant that they have filed with FCC a request to waive the Corporate Operation Expense Limitation. In the event that there is a federal recovery, there shall be a true up to ensure that there is no double recovery of the same expense.

CORPORATION COMMISSION OF OKLAHOMA



BOB ANTHONY, CHAIRMAN



DENISE A. BODE, VICE-CHAIRMAN



ED APPLE, COMMISSIONER

DONE AND PERFORMED THIS 7th DAY OF JUNE, 2000, BY ORDER OF
THE COMMISSION:



CHARLOTTE W. FLANAGAN, Secretary